ADAO
Asbestos Disease Awareness Organization™
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September 18, 2017

The Honorable Scott Pruitt
Administrator
United States Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington, DC 20460

Re: Asbestos; TSCA Review and Scoping DOCKET ID: No. EPA-HQ-OPPT-2016-0736

Dear Administrator Pruitt,

As a key stakeholder in the passage and implementation of the Toxic Substances Control Act (TSCA), the Asbestos Disease Awareness Organization (ADAO) is glad for the chance to comment on the asbestos "problem formulation" document.

As we understand it, the problem formulation process is meant to "refine" the scoping documents released by the U.S. Environmental Protection Agency (EPA) in June 2017. We are concerned by this because, as written, the scoping document on asbestos already leaves significant gaps in legacy contamination, new uses, imports, and "condition of uses" to be evaluated. We are wary that "refining" this document will pare down the parameters of the evaluation even more, further denigrating the depth of this asbestos risk assessment the country so desperately needs.

Since TSCA reform began, ADAO has testified at hearings, participated in stakeholder meetings, been a resource to the Congress and the EPA, and submitted significant evidence proving the undue dangers posed by asbestos (DOCKET ID: No. EPA-HQ-OPPT-2016-0736 [submitted March 15, 2017] and No. HQ-OA-2017-0190 [submitted on May 1, 2017]). These submissions offer overwhelming evidence and complete consensus regarding the dangers of asbestos by every major health and environmental organization around the globe — the U.S. EPA included.

For the record, let me reiterate, asbestos is a known carcinogen and there is no safe level of exposure nor is there any use of asbestos "controlled" enough to eliminate exposure risk.

To the previously submitted evidence, we would like to add new and highly concerning data regarding the ongoing use and transport of asbestos in the U.S., which highlights the exposure risk from both legacy and continuing use issues, as well as other supportive materials, including:

1. March 2017 data from the Center for Disease Control and Prevention (CDC) shows a 4.8% increase in the rate of mesothelioma deaths in the U.S. between 1999-2015, despite a significant decrease in overall asbestos usage since peak consumption in the 1970s;

2. Data from the Department of Commerce and the U.S. International Trade Commission estimates that 705 metric tons of raw asbestos were imported last year, compared to 343 metric tons in 2015;

3. According to USGS, the chloralkali industry, represented in lobbying interests by the American Chemistry Council, accounts for 100% of raw asbestos imports and is petitioning for an exemption from any forthcoming regulation, claiming their use is controlled and safe, however,

4. ADAO is submitting more than 100 peer-reviewed scientific studies on low-dose asbestos exposure confirm that there is no "safe" level of exposure to asbestos. The studies included are just a small sample of the available information that serves to highlight the issue; there are many more studies to this end. (indexed database attached)

5. Further, less than half of chloralkali manufacturing plants in the U.S. rely on asbestos diaphragm technology, indicating that safer substitutes not only exist but are readily available.

6. Nearly 11,000 individuals have signed a petition calling on the U.S. EPA to ban asbestos completely, with no loopholes or use exemptions for the chloralkali or any other industry. (a list of all signatory names is attached)

ADAO and our public health and environmental colleagues are aware of the industry pressure the coming from the chemical lobby. Through the docket submissions we also know that you have met with industry representatives multiple times since the onset of TSCA implementation. It is vital to remember that the chloralkali industry, for which the American Chemistry Council (ACC) is lobbying, is responsible for a full 100 percent of all raw asbestos imported and consumed in the country. Therefore, a regulation that exempts the chloralkali industry's use is no ban at all and will do little to increase protection to the American public.

ACC propaganda claims that the chloralkali's use of asbestos is controlled and "safe," posing no risk to workers or the communities surrounding plants. To reiterate, though, a vast consensus of independent scientists has concluded that there is no safe level of exposure to asbestos.

Furthermore, as previously stated, the scoping document on asbestos leaves significant gaps in the uses and conditions to be evaluated. The most concerning issue with the asbestos scoping document and pending evaluation process is the inappropriate exclusion of "legacy issues." Our concerns with this decision are as follows:

1. The EPA's asbestos scoping document states: "In the case of asbestos, legacy uses and associated and legacy disposals will be excluded from the scope of the risk evaluation. These include asbestos-containing materials that remain in older buildings or are part of older products but for which manufacture, processing and distribution in commerce are not currently intended, known or reasonably foreseen.

    a. However, legacy installed asbestos-containing building materials (ACBMs) represent one of the largest sources of asbestos accessible to the general public in the USA;

    b. The largest significant asbestos exposed population in the USA are people who occupy buildings and homes with legacy installed ACBMs;

c. Persons engaged in maintenance and construction activities affecting so-called legacy installed ACBMs suffered the largest present-day increase in mesothelioma illness and death in the US, according to the US CDC study, "Malignant Mesothelioma Mortality – United States 1999 to 2005";

d. Priority should be given to ongoing and current vulnerable populations who are exposed to asbestos in the U.S. today, including some who are exposed daily to it;

e. Pursuant to Section 6 of the Lautenberg Chemical Safety for the 21st Century Act (LCSA), "the Administrator shall conduct risk evaluations…to determine whether a chemical substance presents an unreasonable risk of injury to health or the environment, without consideration of costs or other non-risk factors, including an unreasonable risk to a potentially exposed or susceptible subpopulation."

2. The scoping document further states that: "EPA is excluding these activities because EPA interprets the mandates under section 6(a)-(b) to conduct risk evaluations and any corresponding risk management to focus on uses for which manufacture, processing or distribution is intended, known to be occurring, or reasonably foreseen, rather than reaching back to evaluate the risks associated with legacy uses, associated disposal, and legacy disposal, and interprets the definition of conditions of use in that context."

   a. We vehemently disagree with the EPA's interpretation that the only uses appropriate for risk evaluation and management are those uses for which manufacture, processing, or distribution is intended because:

      i. No language within the legislative text indicates or implies such a distinction, and

      ii. The legal mandate for the Administrator to give special considerations to vulnerable populations, by definition includes evaluation of legacy-installed ACBMs, waste, and disposal to which thousands of Americans are exposed environmentally and occupationally.

   b. Contrary to EPA's scoping document language, legacy uses, associated disposal, and legacy disposal are, in fact, pertinent to commerce, manufacture, processing or distribution. For example,

      i. 30 million tons of asbestos waste in Vermont is now being transported to New Hampshire for disposal. This movement and the associated risk are evidence that the omission of legacy asbestos issues in the EPA's scoping document leaves dangerous gaps in regulation and protection. This is also an instance where there is active processing and distribution related to asbestos, as well as a commercial interest.

   c. Disaster related widespread destruction of buildings with ACBMs — be it natural, as with hurricanes, or manmade, as in the attacks on 9/11 —create massive exposures to impacted American citizens during rescue, clean-up and rebuilding efforts.

      i. More than 5.6 million cubic yards of debris were released during Hurricane Sandy, which included asbestos among other toxins. Heightened asbestos exposure risk will be present in the aftermath of Hurricane Harvey, and every other destructive disaster, be it natural or

manmade. This danger and the vulnerable populations it targets is further evidence that legacy asbestos issues must be considered in any thorough evaluation and regulation;

ii. Data from the World Trade Center Health Program illustrating that 50% of 9/11 first responders now suffer chronic, exposure-based illnesses. This represents a 7% increase from last year, when 43% of responders had contracted 9/11-related diseases.

iii. Firefighters in the U.S. are diagnosed with asbestos-caused mesothelioma at a rate two times greater than the general public as a result of inhaling asbestos fibers released while ACBMs burn, according to a 2013 study from the National Institute of Occupational Safety and Health (NIOSH).

3. The scoping document specifically excludes the Libby amphibole from the scope of its asbestos risk evaluation and subsequent regulation, on the grounds that it is not currently manufactured, nor are there foreseeable plans for future manufacture.

   a. Excluding the Libby presents the potential for significant negative health impacts. As the EPA stated, "vermiculite contaminated with the Libby Amphibole remains in buildings as an insulating material and therefore presents the potential for human exposure."

   b. In June 2009, the U.S. Environmental Protection Agency (EPA) designated the town of Libby, Montana, a public health emergency--the first and only time the EPA has made such a determination under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).

   c. Trees in Libby, Montana have accumulated amphibole asbestos fibers on their bark surface, providing for inhalational exposures. In the case of a wildfire, which Libby is currently facing, this risk of inhalation spikes as asbestos fibers are released when the trees burn.

   d. Given that the EPA has knowledge of exposure risk from this asbestos use, and knows that eventually this asbestos must either be abated or remediated, it is unconscionable to omit this class of asbestos from TSCA evaluation and regulation.

In summation, ADAO urges EPA to use the mandate and opportunity provided by the LCSA to provide a comprehensive and stringent review of the existing harms posed by asbestos and in the future. As reported, asbestos disease is on the rise, even though it is completely and 100 percent preventable. EPA's scoping document should and must evaluate the risk of currently exposed populations including firefighters, workers with newly imported asbestos exposures, utility workers, construction and demolition workers, schoolteachers, students and school staff and the millions of persons with vermiculite in their homes. In its review, EPA should outline a path to a complete ban of asbestos use and importation into the U.S. Zero risk for asbestos-related diseases should ultimately be the goal.

Signed,

Linda Reinstein
President/Co-founder, ADAO

REFERENCES

30 million tons of asbestos leftovers. August 17, 2017. News and Citizen. http://www.stowetoday.com/news_and_citizen/news/local_news/million-tons-of-asbestos-leftovers/article_f4f10bae-8366-11e7-8fb7-e363f8bc6585.html

Amphibole asbestos in tree bark--a review of findings for this inhalational exposure source in Libby, Montana (2012). Ward TJ, Spear TM, Hart JF, Webber JS, Elashheb MI. Journal of Occupational and Environmental Hygiene. https://www.ncbi.nlm.nih.gov/pubmed/22577793

Asbestos Worries Surface As Fire Nears Vermiculite Mine. September 13, 2017. Daily Inter Lake. http://www.dailyinterlake.com/article/20170913/ARTICLE/170919936

Malignant Mesothelioma Mortality — United States, 1999–2015 (March 2017). Mazurek, J; Syamlal, G; Wood, J; *et al.* Center for Disease Control and Prevention Morbidity and Mortality Weekly Report. https://www.cdc.gov/mmwr/volumes/66/wr/pdfs/mm6608a3.pdf

Malignant Mesothelioma Mortality --- United States, 1999—2005 (2009). Syamlal, G; Sharp, D. Center for Disease Control and Prevention Morbidity and Mortality Weekly Report. https://www.cdc.gov/mmwr/preview/mmwrhtml/mm5815a3.htm

Study of Cancer among U.S. Fire Fighters (2013). National Institute for Occupational Safety and Health. https://www.cdc.gov/niosh/firefighters/ffcancerstudy.html